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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,058	01/28/2002	Andrew William Heath	010827.50861	5470

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EXAMINER

GAMBEL, PHILLIP

ART UNIT PAPER NUMBER

1644

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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1644 11222006

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Commissioner for Patents

Applicant's election with traverse of Group I and the species wherein the ligand is an anti-CD40 antibody in the Reply to Office Action, filed 8/22/06, is acknowledged. The traversal is on the ground(s) that the different classification, which was relied upon in the Restriction Requirement mailed 7/3/06, was not shown and, in turn, no adequate reason has been provided.

The indication of different classification between the Groups in the previous Restriction Requirement was an inadvertent error. The examiner apologizes for any misunderstanding or confusion to applicant in this matter. However, the following was also noted in the Restriction Requirement, .

Inventions II I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)).

In the instant case, the products as claimed can be used in a materially different process such as affinity purification procedures, bioassays or detection assays.

Alternatively, there a number of adjuvant preparations that do not rely upon a CD40 ligand.

Further, the Restriction Requirement indicated that the Groups encompassed divergent subject matter as well. For the reasons of record, applicant's arguments have not been found persuasive.

The Restriction Requirement is still deemed proper and is therefore made FINAL.

With respect to the second election of species, applicant elected the species where the antigen is a T-cell dependent antigen.

However, as indicated in the previous Restriction / Species Requirement, applicant was required to elect a particular antigen (e.g. glycoprotein B) AND indicate whether the elected antigen is a T-cell dependent or T-cell independent antigen.

Again, applicant is invited to elect a particular antigen AND indicate whether the elected antigen is a T-cell dependent or T-cell independent antigen.

Applicant is reminded that should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or

admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

Telephone calls were made to J.D. Evans on 11/16/06 and 11/20/06 to request an oral election for the second species to the above restriction requirement, but did not result in an election being made.

Since the above-mentioned reply appears to be bona fide attempt to provide a complete reply to the prior Office Action, applicant is given a shortened statutory period of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this letter, whichever is longer within which to submit a complete reply. This shortened statutory period for reply supersedes the time period set in the prior Office Action. This time period may be extended pursuant to 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gambel whose telephone number is (571) 272-0844. The examiner can normally be reached Monday through Thursday from 7:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The fax number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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November 22, 2006